

AMENDED IN ASSEMBLY APRIL 27, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 686

Introduced by Assembly Member Aroner

February 23, 1999

An act to amend Section 366.3 of, and to add Section 391 to, the Welfare and Institutions Code, relating to minors.

LEGISLATIVE COUNSEL'S DIGEST

AB 686, as amended, Aroner. Dependent children: termination of jurisdiction.

Existing law provides that a child who has been abused or neglected may be adjudged a dependent child of the juvenile court. Existing law specifies procedures for terminating that jurisdiction.

This bill would require the county welfare department to ensure that the child is present in court at any hearing to terminate jurisdiction over that child, unless the child *does not wish to appear or* cannot be located, *as specified*. The bill also would require the department to submit a report verifying that specified information, documents, and services have been provided to the child. The bill would also prohibit the court from terminating jurisdiction unless the court finds that the county welfare department has provided the information, documents, and services, and that termination of jurisdiction is in the child's best interests, *except as specified*. By imposing new duties on local employees, the bill would impose a stat-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 366.3 of the Welfare and
2 Institutions Code is amended to read:
3 366.3. (a) If a juvenile court orders a permanent plan
4 of adoption or legal guardianship pursuant to Section 360
5 or 366.26, the court shall retain jurisdiction over the child
6 until the child is adopted or the legal guardianship is
7 established. The status of the child shall be reviewed
8 every six months to ensure that the adoption or
9 guardianship is completed as expeditiously as possible.
10 When the adoption of the child has been granted, the
11 court shall terminate its jurisdiction over the child.
12 Following establishment of a legal guardianship, the
13 court may continue jurisdiction over the child as a
14 dependent child of the juvenile court following the
15 establishment of a legal guardianship or may terminate its
16 dependency jurisdiction and retain jurisdiction over the
17 child as a ward of the guardianship, as authorized by
18 Section 366.4. If, however, a relative of the child is
19 appointed the legal guardian of the child and the child has
20 been placed with the relative for at least 12 months, the
21 court shall, except upon a finding of exceptional
22 circumstances, terminate its dependency jurisdiction and
23 retain jurisdiction over the child as a ward of the
24 guardianship, as authorized by Section 366.4. Following a

1 termination of parental rights the parent or parents shall
2 not be a party to, or receive notice of, any subsequent
3 proceedings regarding the child.

4 (b) If the court has dismissed dependency jurisdiction
5 following the establishment of a legal guardianship, or no
6 dependency jurisdiction attached because of the granting
7 of a legal guardianship pursuant to Section 360, and the
8 legal guardianship is subsequently revoked or otherwise
9 terminated, the county department of social services or
10 welfare department shall notify the juvenile court of this
11 fact. The court may vacate its previous order dismissing
12 dependency jurisdiction over the child.

13 Notwithstanding Section 1601 of the Probate Code, the
14 proceedings to terminate a guardianship which has been
15 granted pursuant to Section 360 or 366.26 shall be held in
16 the juvenile court, unless the termination is due to the
17 emancipation or adoption of the child. Prior to the
18 hearing on a petition to terminate guardianship pursuant
19 to this paragraph, the court shall order the county
20 department of social services or welfare department to
21 prepare a report, for the court's consideration, that shall
22 include an evaluation of whether the child could safely
23 remain in the guardian's home, without terminating the
24 guardianship, if services were provided to the child or
25 guardian. If applicable, the report shall also identify
26 recommended services to maintain the guardianship and
27 set forth a plan for providing those services. If the petition
28 to terminate guardianship is granted, the juvenile court
29 may resume dependency jurisdiction over the child, and
30 may order the county department of social services or
31 welfare department to develop a new permanent plan,
32 which shall be presented to the court within 60 days of the
33 termination. If no dependency jurisdiction has attached,
34 the social worker shall make any investigation he or she
35 deems necessary to determine whether the child may be
36 within the jurisdiction of the juvenile court, as provided
37 in Section 328.

38 Unless the parental rights of the child's parent or
39 parents have been terminated, they shall be notified that
40 the guardianship has been revoked or terminated and

1 shall be entitled to participate in the new permanency
2 planning hearing. The court shall try to place the child in
3 another permanent placement. At the hearing, the
4 parents may be considered as custodians but the child
5 shall not be returned to the parent or parents unless they
6 prove, by a preponderance of the evidence, that
7 reunification is the best alternative for the child. The
8 court may, if it is in the best interests of the child, order
9 that reunification services again be provided to the
10 parent or parents.

11 (c) If, following the establishment of a legal
12 guardianship, the county welfare department becomes
13 aware of changed circumstances that indicate adoption
14 may be an appropriate plan for the child, the department
15 shall so notify the court. The court may vacate its previous
16 order dismissing dependency jurisdiction over the child
17 and order that a hearing be held pursuant to Section
18 366.26 to determine whether adoption or continued
19 guardianship is the most appropriate plan for the child.
20 The hearing shall be held no later than 120 days from the
21 date of the order. Whenever the court orders that a
22 hearing shall be held pursuant to Section 366.26, the court
23 shall direct the agency supervising the child and the
24 licensed county adoption agency, or the State
25 Department of Social Services when it is acting as an
26 adoption agency in counties that are not served by a
27 county adoption agency, to prepare an assessment under
28 subdivision (b) of Section 366.22.

29 (d) If the child is in a placement other than the home
30 of a legal guardian and jurisdiction has not been
31 dismissed, the status of the child shall be reviewed at least
32 every six months. The review of the status of a child for
33 whom the court has ordered parental rights terminated
34 and who has been ordered placed for adoption shall be
35 conducted by the court. The review of the status of a child
36 for whom the court has not ordered parental rights
37 terminated and who has not been ordered placed for
38 adoption may be conducted by the court or an
39 appropriate local agency. The court shall conduct the
40 review under the following circumstances:



1 (1) Upon the request of the child's parents or
2 guardians.

3 (2) Upon the request of the child.

4 (3) It has been 12 months since a hearing held
5 pursuant to Section 366.26 or an order that the minor
6 remain in long-term foster care pursuant to Section
7 366.21, 366.22, 366.26, or subdivision (f).

8 (4) It has been 12 months since a review was
9 conducted by the court.

10 (e) Except as provided in subdivision (f), at the review
11 held every six months pursuant to subdivision (d), the
12 reviewing body shall inquire about the progress being
13 made to provide a permanent home for the child, shall
14 consider the safety of the child, and shall determine all of
15 the following:

16 (1) The appropriateness of the placement.

17 (2) The continuing appropriateness and extent of
18 compliance with the permanent plan for the child.

19 (3) The extent of compliance with the child welfare
20 services case plan.

21 (4) The adequacy of services provided to the child.
22 The court shall consider ~~the need for, and~~ the progress in
23 providing, the information, ~~documents, and services and~~
24 ~~documents~~ to the child, as described in Section 391. *The*
25 *court shall also consider the need for, and progress in*
26 *providing, the assistance and services described in*
27 *paragraphs (3) and (4) of subdivision (b) of Section 391.*

28 (5) For a child who is 16 years of age or older, the
29 services needed to assist the child to make the transition
30 from foster care to independent living.

31 Each licensed foster family agency shall submit reports
32 for each child in its care, custody, and control to the court
33 concerning the continuing appropriateness and extent of
34 compliance with the child's permanent plan, the extent
35 of compliance with the case plan, and the type and
36 adequacy of services provided to the child.

37 Unless their parental rights have been permanently
38 terminated, the parent or parents of the child are entitled
39 to receive notice of, and participate in, those hearings. It
40 shall be presumed that continued care is in the best

1 interests of the child, unless the parent or parents prove,
2 by a preponderance of the evidence, that further efforts
3 at reunification are the best alternative for the child. In
4 those cases, the court may order that further reunification
5 services to return the child to a safe home environment
6 be provided to the parent or parents for a period not to
7 exceed six months.

8 (f) At the review conducted by the court and held at
9 least every six months, regarding a child for whom the
10 court has ordered parental rights terminated and who has
11 been ordered placed for adoption, the county welfare
12 department shall prepare and present to the court a
13 report describing the following:

14 (1) The child's present placement.

15 (2) The child's current physical, mental, emotional,
16 and educational status.

17 (3) Whether the child has been placed with a
18 prospective adoptive parent or parents.

19 (4) Whether an adoptive placement agreement has
20 been signed and filed.

21 (5) The progress of the search for an adoptive
22 placement if one has not been identified.

23 (6) Any impediments to the adoption or the adoptive
24 placement.

25 (7) The anticipated date by which the child will be
26 adopted, or placed in an adoptive home.

27 (8) The anticipated date by which an adoptive
28 placement agreement will be signed.

29 (9) Recommendations for court orders that will assist
30 in the placement of the child for adoption or in the
31 finalization of the adoption.

32 The court shall make appropriate orders to protect the
33 stability of the child and to facilitate and expedite the
34 permanent placement and adoption of the child.

35 (g) At the review held for a child in long-term foster
36 placement and for whom 12 months have elapsed since
37 a hearing at which the child was ordered into long-term
38 foster care, the court shall consider all permanency
39 planning options for the child including whether the
40 child should be returned to the home of the parent,

1 placed for adoption, or appointed a legal guardian, or
2 whether the child should remain in long-term foster care.
3 The court shall order that a hearing be held pursuant to
4 Section 366.26 unless it determines by clear and
5 convincing evidence, that there is a compelling reason for
6 determining that a hearing held pursuant to Section
7 366.26 is not in the best interest of the child because the
8 child is not a proper subject for adoption or that there is
9 no one willing to accept legal guardianship. If it is unlikely
10 that the child will be adopted or one of the conditions
11 described in paragraph (1) of subdivision (c) of Section
12 366.26 applies, that fact shall constitute a compelling
13 reason for purposes of this subdivision. Only upon that
14 determination may the court order that the child remain
15 in long-term foster care, without holding a hearing
16 pursuant to Section 366.26.

17 (h) If, as authorized by subdivision (f), the court
18 orders a hearing pursuant to Section 366.26, the court
19 shall direct the agency supervising the child and the
20 licensed county adoption agency, or the State
21 Department of Social Services when it is acting as an
22 adoption agency in counties that are not served by a
23 county adoption agency, to prepare an assessment as
24 provided for in subdivision (i) of Section 366.21 or
25 subdivision (b) of Section 366.22. A hearing held pursuant
26 to Section 366.26 shall be held no later than 120 days from
27 the date of the 12-month review at which it is ordered,
28 and at that hearing the court shall determine whether
29 adoption, guardianship, or long-term foster care is the
30 most appropriate plan for the child.

31 SEC. 2. Section 391 is added to the Welfare and
32 Institutions Code, to read:

33 391. At any hearing to terminate jurisdiction over a
34 dependent child who has reached the age of majority the
35 county welfare department shall do both of the following:

36 (a) Ensure that the child is present in court, unless the
37 child *does not wish to appear in court or, after reasonable*
38 *efforts by the county welfare department, the child*
39 cannot be located.

1 (b) Submit a report verifying that the following
2 information, documents, and services have been
3 provided to the child:

4 (1) Written information concerning the child's
5 dependency case, including his or her family history and
6 placement history, the whereabouts of any siblings under
7 the jurisdiction of the juvenile court, *unless the court*
8 *determines that sibling contact would jeopardize the*
9 *safety or welfare of the sibling, directions on how to access*
10 *the documents the child is entitled to inspect under*
11 *Section 827, and the date on which the jurisdiction of the*
12 *juvenile court would be terminated.*

13 (2) The following documents, where applicable: social
14 security card, certified birth certificate, driver's license,
15 death certificate of parent or parents, and proof of
16 citizenship or residence.

17 (3) Assistance in completing an application for
18 Medi-Cal or assistance in obtaining other health
19 insurance; referral to transitional housing, if available, or
20 assistance in securing other housing; and assistance in
21 obtaining employment or other financial support.

22 (4) Assistance in applying for admission to college or
23 to a vocational training program or other educational
24 institution and in obtaining financial aid, where
25 appropriate.

26 (c) The court shall not terminate jurisdiction unless it
27 finds that the county welfare department has complied
28 with subdivision (b), and that termination of jurisdiction
29 is in the child's best interests. *However, the court may*
30 *terminate jurisdiction if the county welfare department*
31 *has offered the required services, and the child either has*
32 *refused the services or, after reasonable efforts by the*
33 *county welfare department, cannot be located.*

34 SEC. 3. Notwithstanding Section 17610 of the
35 Government Code, if the Commission on State Mandates
36 determines that this act contains costs mandated by the
37 state, reimbursement to local agencies and school
38 districts for those costs shall be made pursuant to Part 7
39 (commencing with Section 17500) of Division 4 of Title
40 2 of the Government Code. If the statewide cost of the

1 claim for reimbursement does not exceed one million
2 dollars (\$1,000,000), reimbursement shall be made from
3 the State Mandates Claims Fund.

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